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S.B. CIVIL MISC. APPEAL NO. 174 /2007
(Smt Guddi & Ors Vs. Samandar Khan & Ors.)

Date of Order :: 11th January 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. S.K.Sankhla for
Mr. B.L. Tiwari, for the appellants.

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Having heard learned counsel for the claimant-appellants and having perused the impugned award dated 09.05.2005 made by the Tribunal this Court is satisfied that the instant appeal for enhancement of the amount of compensation remains bereft of substance and does not merit admission.

For quantification of compensation to be awarded to the wife and children of the vehicular accident victim Saddiq Khan, about 30 years in age, the Tribunal has noticed the submissions of the claimants about the deceased earning as a driver; and for want of any cogent evidence on record, has taken his monthly income at Rs. 2,500/- and deducting one-third wherefrom and with application of multiplier of 18 has assessed pecuniary loss at Rs. 3,59,856/-; and allowing Rs. 10,000/- to the wife of the deceased towards loss of consortium, Rs. 5,000/- to each of the three children towards loss of guidance and affection of their father, Rs. 1,000/- towards transportation, and further Rs.10,000/- towards

funeral expenses has awarded compensation in the sum of Rs. 3,95,856/-. The Tribunal has allowed interest @ 9% per annum from the date of filing of claim application, after adjustment of the amount received under interim award.

To say the least, the award on its quantification of compensation stands rather on the higher side. In the absence of any cogent evidence regarding earnings of the deceased, the Tribunal has taken a reasonably higher figure at Rs. 2,500/- per month and has estimated loss of contribution at Rs. 19,992/- per annum after deducting one-third on personal expenditure of the deceased. Then, the Tribunal has proceeded to apply maximum multiplier of 18 to assess pecuniary loss at Rs. 3,59,856/-. The amount of Rs. 10,000/- towards funeral expenses is also excessive. The Tribunal has not restricted on the amount of non-pecuniary loss either. Moreover, the Tribunal has allowed interest at the higher rate of 9% per annum.

In the ultimate analysis, the award amount could only be said to be on the higher side; and from any standpoint does not appear low or inadequate. There appears no scope for upward revision in such a liberal award made by the Tribunal.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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